

591—6.8(424) Payment of the charge. A depositor shall, as far as practicable, add the charge or the average equivalent of the charge to the sale price of the petroleum. When added, the charge is a part of the depositor's price and is a debt from the receiver to the depositor until paid. The depositor can recover the charge at law from the receiver in the same manner as other debts. The charge must be separately stated on the invoice.

Liability for paying the charge to the department is upon the depositor and upon the receiver unless the charge has been paid to the depositor in which case the depositor is liable. Liability for the charge is upon only the receiver if the depositor takes, in good faith from a receiver liable for the charge, a valid exemption certificate and, in addition, does the following: records the exemption certificate number and/or other information required by the director and submits this information as required by the director as part of the environmental protection charge return.

Liability for paying the charge to the department is upon the receiver alone if the receiver sends its own tanker truck or a common or contract carrier employed by the receiver to a distributor's facility and title to petroleum passes to a receiver there. If a person, upon the initial purchase of petroleum, causes that petroleum to be placed in a storage facility which is not a "tank" as defined in rule 591—6.1(424) and subsequently transfers the petroleum to a tank, that person becomes a receiver, and is liable for payment of the charge at the time petroleum is placed in the tank.

At one and the same time, a person can engage in a series of transactions in which it is a depositor and another series of transactions in which it is a receiver. If a person is involved in transactions in some of which it is a depositor and in some of which it is a receiver, it will, for the purposes of this chapter, have obligations both as a depositor and a receiver. In some circumstances the person will be obligated to collect the charge from another party and forward the charge to the department; in other circumstances it will be obligated to pay the charge to another party who is then obligated to forward that charge to the department. In other circumstances a receiver of petroleum rather than a depositor is obligated to pay the charge to the department. In the following examples which illustrate this, assume that A is a petroleum distributor with terminal rights, B is a petroleum distributor or wholesaler who also owns retail petroleum outlets, and that C is a petroleum retailer independent of B.

EXAMPLE A: B contacts A and asks A to transfer petroleum into a tank at B's retail facility. This is done. In this case, B is the receiver of the petroleum and A is its depositor.

EXAMPLE B: C orders petroleum from B, who contacts A who transports the petroleum to C's station and deposits it in C's tank. Title to the petroleum transfers from A to B to C. In this situation, B is the depositor who causes the petroleum to be deposited in the tank and who transfers title to C, who is the receiver.

EXAMPLE C: C contacts B asking that A transport a load of petroleum to C's exempt storage facility. This is done. Title to the petroleum is transferred first from A to B and then, when the petroleum enters the exempt storage facility, to C. Later, C pumps the petroleum into a tank. At the time C pumps the petroleum into the tank, C becomes a receiver of the petroleum who is obligated to forward the charge to the department.

EXAMPLE D: C owns a tank truck capable of transporting petroleum. C drives to A's facility and there accepts title to and possession of a load of petroleum. C then transports this petroleum back to its retail station and places the petroleum in a tank. At the time the petroleum is placed in the tank, C becomes a receiver who is obligated to forward the charge to the department.

This rule is intended to implement Iowa Code sections 424.4 and 424.6.